

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY**  
**BOARD OF ADJUSTMENT MINUTES**  
**August 22, 2006**

Roll Call: Cioni, Eller, Hurley, Kramer, Mangiacotti, Nienstedt, Post and Truman –  
8 Present.

Absent: Semonche – 1 Absent.

Vacancy: None

Also Present: Stuart Ours, Esq., Board Attorney  
Rudy Bescherer, Zoning Officer  
Ann Kilduff, Clerk

Chairman Cioni led the members of the Board in the flag salute and read the Open Public Meetings Act into the Record.

**MINUTES:**

**Regular Meeting – June 27, 2006**

Chairman Cioni entertained additions or corrections to the minutes. Hearing none, it was moved by Post, seconded by Hurley that the minutes of the regular meeting held June 27, 2006 be approved as submitted.

Roll Call: Cioni, Hurley, Nienstedt, and Post –  
Ayes: 4, Nays: 0, Abstained: Eller, Kramer, Mangicotti, Truman

Motion carried.

The brief recap of the July 25, 2006 regular meeting was duly noted and will be kept on file. No meeting took place due to lack of quorum.

Attorney Stuart Ours swore in new Board Member Tina Bukow Truman.

**RESOLUTIONS:**

**Case #2006:10 – David Uporsky, 281 Wyoming Avenue**

It was moved by Hurley, seconded by Nienstedt that the resolution be adopted as approved at the June meeting for the construction of a wrap-around porch.

Roll Call: Cioni, Hurley, Nienstedt, Post –  
Ayes: 4, Nays: 0, Abstained: Eller, Kramer, Mangicotti, Truman

Motion carried.

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**Case #2006:12 – Adam and Gretchen Renaldo, 38 Alvin Sloan Avenue**

It was moved by Hurley, seconded by Nienstedt that the resolution be adopted as approved at the June meeting for the construction of a deck.

Roll Call: Cioni, Hurley, Nienstedt, Post –  
Ayes: 4, Nays: 0, Abstained: Eller, Kramer, Mangicotti, Truman

Motion carried.

**APPLICATIONS:**

**Case #2006:13 – Ronald & Michael Kovacs, 3 Hillcrest Avenue, Block 86, Lot 3 – R2 Zone**

This application is filed for the purpose of continued use of two separate dwelling units.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-76 A of the Municipal Zoning Ordinance for the following reason(s): Two dwelling units on the same lot are not permitted in the R2 Zone.

Attorney Ours reviewed the notices of service and affidavit of publication and found everything to be in order. The Board has jurisdiction to hear this application.

The Oath was administered to Michael Kovacs, 355 Jonestown Road, Oxford, for his testimony.

Mr. M. Kovacs stated that there are currently two dwellings on a single lot. There is an apartment over a two-car garage that has been occupied since 1948. This apartment is assessed separately for tax purposes and receives a separate tax bill. Since this has existed prior to the zoning change which occurred in approximately 1972, Mr. M. Kovacs feels this case should be grandfathered.

Mr. Ours stated that this is a pre-existing, non-conforming use. Mr. M. Kovacs stated his family purchased the property in 1944. The apartment was there, but not rented out until 1948 and has continuously been rented out since then.

Mr. Ours asked what the apartment consisted of. Mr. M. Kovacs stated the apartment has a bedroom, living room, kitchen, bathroom, large walk-in closet, use of one-car garage and a washer and dryer in the basement. There is separate heating in the garage.

Mr. Eller asked if there was ever a lapse in tenants. Mr. M. Kovacs responded that there was never more than a 1-2 week lapse. Mr. Ours noted that this does not seem to be an abandonment issue.

Chairman Cioni noted that there was no one present in the audience to ask any questions of the applicant.

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Hearing no further discussion from the Board, a motion was made by Hurley, seconded by Kramer, that the Board determines Mr. Michael Kovacs and Mr. Ronald Kovacs can continue use of two separate dwelling units on their property due to the fact that this clearly existed before the zoning ordinance. Attorney Ours stated this determination of pre-existing, non-conforming use is granted as the apartment currently stands.

Roll Call: Cioni, Eller, Hurley, Kramer, Mangicotti, Nienstedt, Post  
Ayes: 7, Nays: 0, Abstained: Truman

Motion carried.

**Case #2006:14 – Pinakin Patel, 5 Ridgetop Terrace, Block 40.05, Lot 11 – R1 Zone**

This application is filed for the purpose of constructing a 14' x 24' deck.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-75 B4 of the Municipal Zoning Ordinance for the following reason(s): There shall be a rear yard of at least 50 feet.

Attorney Ours asked Mr. Patel for the mail receipts. After reviewing the notices of service and affidavit of publication, Mr. Ours found everything to be in order. The Board has jurisdiction to hear this application.

The Oath was administered to Mr. Patel for his testimony.

Mr. Ours asked if there is any open space near his house. Mr. Patel responded that the only open space is drainage ditches.

Mr. Eller asked if this property is in a cluster zone. Zoning Officer Rudy Bescherer stated he had no knowledge of this property being in a cluster zone.

Mr. Patel stated he would like to use the deck for his children to play on. He has 15' of flat land and then it drops off. There is a shed/garage behind him on the adjoining property.

Ms. Truman asked Mr. Patel if the people behind him had a deck. Mr. Patel responded that his neighbors have a patio.

Mr. Eller stated that the reason for hearing Mr. Patel's case is to determine if the setback is 40' or 50'. He then explained to Mr. Patel that if all board members can agree that a 40' setback is feasible, then a variance is not necessary.

Chairman Cioni noted that there was no one in the audience with any questions of the applicant.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Hurley, that the Board allow Mr. Patel to construct a 24' long deck on his property. The Board believes a 40' setback is required on this particular property due to cluster zoning. The applicant

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therefore agrees to amend his deck plans to conform to 10' width on the easterly side, and a 12' width on the westerly side. No variance is required as long as a 40' rear yard setback is maintained. The construction of this deck as mentioned above will not be a detriment to the neighborhood and it will not substantially impair the intent and purpose of the zone plan.

Roll Call: Cioni, Eller, Hurley, Kramer, Mangicotti, Nienstedt, Post –  
Ayes: 7, Nays: 0, Abstained: Truman

Motion carried.

**Case #2006:15 – Jeff Mehl, 30 Taylor Street, Block 31, Lot 1 – R3 Zone**

This application is filed for the purpose of converting a 2-family dwelling into a 3-family dwelling and a 20' drive apron.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-77 B5 and 94-53A,C of the Municipal Zoning Ordinance for the following reasons: Minimum lot area is 6,250 sq. ft. for a single family and 5,000 sq. ft. for each additional unit. Drives shall be as least 50' from an intersection and a buffer required.

Attorney Ours stated that the notices of service and affidavit of publication were reviewed in preparation for the July meeting and found everything to be in order. At that time, members of the public were told to come to this meeting. The Board has jurisdiction to hear this application.

The Oath was administered to Mr. August Santore, Jr, Esq. and Mr. Jeffrey Mehl for their testimony.

Mr. Mehl stated he is the purchaser under contract of the property. He is impressed with the revitalization of the Borough and therefore wishes to purchase this property to invest in the Borough. Mr. Mehl said he is concerned about the safety of the property, especially since it is next to a school and he has a significant interest in enhancing the property.

The property is zoned R3. Two existing units are being used. The 3<sup>rd</sup> unit was once a professional business but is not currently being used.

Mr. Santore wanted to understand how the property can be used and discuss the parking issue. He presented eight pictures to the Board Members for their review. Six pictures were of the premises and two were of the neighbor's property. Attorney Ours swore in Mr. Kenneth Boucher, Mr. Mehl's business partner, and the pictures were discussed.

Mr. Boucher stated they are looking to take parked cars off the street. Chairman Cioni asked if parking is currently allowed on E. Stewart Street and Taylor Street. Mr. Boucher stated there is not a lot of parking. Much of the curbing is painted yellow because of the nearby school.

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Chairman Cioni asked if there are existing tenants in both units and the answer was yes, both units are currently occupied.

Board Member Hurley stated that the property doesn't support enough parking for what is being proposed. Board Member Eller asked Rudy Bescherer if he was aware of any parking issues. Mr. Bescherer stated he was not aware of any parking issues and that overnight parking permits are available if needed.

Chairman Cioni entertained testimony from the audience.

Mr. Peter Kalbarczyk, 34 E. Stewart Street, is the owner of the adjacent property on the side of the proposed parking area. He stated his living room and a bedroom window face the parking area and doesn't want to smell gasoline. He also doesn't want asphalt there. He had previously taken out some of the paving and planted grass to have a nicer view. He doesn't feel there is enough room for parking. Mr. Kalbarczyk feels having an office there will mean more traffic and it will not be safe for the children.

Board Member Eller clarified for everyone that Taylor Street School children get dropped off in the morning; however, in the afternoon, all cars surround the property in question because Taylor Street is closed. There are very few parking spots due to driveways.

Donna Howard, 44 E. Stewart Street, stated she lived there for five years and in the Borough for 41 years. Her main concern is the parking. She said parking on site will lower the value of her house as she feel it will be an eyesore if too many cars are parked there. Board Member Hurley reminded her that the applicant was flexible with the parking issue. Mr. Santore cleared up Ms. Howard's questions regarding the proposed type of business.

Ace Rush, 43 E. Stewart Street, asked where you can legally park. Board Member Eller suggested Mr. Rush speak to the Zoning Officer. Mr. Eller asked if any public parking would be eliminated if the driveway apron is put in. Based on the pictures submitted, one parking spot would be eliminated.

Curtis Mowrey, 37 E. Stewart Street, explained there is a lot of yellow curbing because trucks coming up the street can't make the turn if cars are parked there. He realized it is an inconvenience for people, but doesn't want to see the yellow curbs removed.

Jack Wiseburn, 191 W. Washington Avenue stated he owns the property at 44 E Stewart Street. Mr. Wiseburn stated he understands the reasoning of the neighbor with windows facing property in question. It reduces his property value and is not a good view.

John Stasyshan, 36 E. Stewart Street stated he was concerned with the commercial use of the property. He would like to see the neighborhood stay residential.

Mr. William Phillips, stated he is current owner of the property. The trailer next to it belongs to his son. Mr. Phillips stated he would eventually like to remove the trailer and build a

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house there. He is willing to give up the driveway cut between the trailer and the house. He would also like to keep the two properties separate.

Mr. Hurley stated that although this applicant is proposing a very small business office, if commercial use is granted for this applicant, the next tenant may have a more intense use.

At this time, Mr. Mehl summarized his intent for everyone.

Mr. Ace Rush again stated his concern with taking one parking spot away if the apron is cut in as planned.

Mrs. Donna Howard asked the Board to please consider that what the applicant is proposing does not meet the desire of the neighborhood.

Mr. Peter Kalbarczyk reiterated his concerns with parking issues.

Chairman Cioni noted that there was no one else in the audience with any questions of the applicant. Mr. Cioni stated that this variance request has two issues: 1) use and 2) parking if use is granted.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Post, that the Board deny a variance to Mr. Mehl for the purpose of converting a 2-family dwelling into a 3-family dwelling and a 20' drive apron due to the fact that granting the variance would be a detriment to the neighborhood and it will substantially impair the intent and purpose of the zone plan.

Roll Call: Eller, Hurley, Mangicotti, Nienstedt, Post –  
Ayes: 5, Nays: 2, Abstained: Truman

Motion carried.

The Board also voted to deny a variance for the parking due to the fact that granting the variance would be a detriment to the neighborhood and it will substantially impair the intent and purpose of the zone plan.

Roll Call: Eller, Kramer, Nienstedt, Post –  
Ayes: 4, Nays: 3, Abstained: Truman

Motion carried.

**COMMUNICATIONS:**

A request for a variance extension from Mr. Sam Hicks was received. Attorney Alan Lowcher was in attendance representing Mr. Hicks. An extension is requested thru September 28, 2007 in case water approvals take longer than the original variance date.

Chairman Cioni entertained testimony from the audience.

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Mr. Charles Anthony was sworn in and stated his concerns. Mr. Anthony feels Mr. Hicks needs a minor site plan. Mr. Anthony stated that if Mr. Hicks does this work without a site plan, it will disturb his own site plan and cause problems when he plans to do something in the future.

Attorney Ours stated that a single family home is exempt from having to have a site plan.

Mr. Lowcher stated Mr. Hicks has not cut any corners. He is simply looking for an extension of time due to circumstances not in his control.

Mr. Anthony stated he was looking for clarification to hopefully avoid problems in the future. He then provided Mr. Ours with a copy of the original resolution of the initial hearing.

Hearing no further discussion from the Board, a motion was made by Post, seconded by Kramer, that the Board approve an extension to Mr. Hicks until September 28, 2007 due to the fact that the applicant has encountered difficulties which he had not previously anticipated and he requires action by those over whom he has no control.

Roll Call: Cioni, Eller, Hurley, Kramer, Mangicotti, Nienstedt, Post –  
Ayes: 7, Nays: 0, Abstained: Truman

Motion carried.

**REPORTS:**

The Board had asked Rudy Bescherer, Zoning Officer, to explain the project at 15 Monroe Street. Mr. Bescherer explained that the owner had a permit for a driveway and curb cut. They met the minimum requirements of the zoning ordinance. The parking area length has a 15' minimum requirement.

Board Member Post feels a variance is necessary for a parking area in the front yard.

Attorney Ours stated that the Board's interpretation on driveways is that there shall be no parking on the front lawn except on approved parking spaces. That approval needs to come from the Board in the future.

**REMARKS:**

Hearing no further business to come before the Board, a motion was made by Hurley, seconded by Post, that the meeting be adjourned at 11:15 PM.

Ayes: 8, Nays: 0.  
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary